

RESEARCHING THE INTERSECTIONS BETWEEN WAR, LAW AND MILITARY GEOGRAPHY

Abstract

This chapter charts a research agenda for what might be called legal military geography. It argues that military geography and proximate fields of study would be enriched by attending to 'the legal' and closely examining the role that law plays in the conduct of war and military operations. The chapter explores the sometimes-surprising relations between war and law and suggests that military geographies are often underwritten by legal regimes and legal regulations that have been seldom noted by military geographers. The first two sections lay some conceptual foundations for legal military geography and demonstrate some of the manifold relationships between war, law and military geography. The chapter then shows how law and legal discourse are key means through which later modern war and the later modern battlefield are being contemporaneously (re)written. It then explores the role of law in maintaining and blurring the distinction between war and peace and civilian and military worlds, before reflecting on the status of 'war' within contemporary military geography research. The chapter concludes with some reflections on methodology and the implications of bringing 'law' into the military geography fold.

Keywords

Legal military geography; war; law; military violence; military research methods

1. LAW AND MILITARY GEOGRAPHY

This chapter charts a research agenda for what might be called legal military geography. Legal military geography is not a defined field but whether or not we choose to labour under this name (or another one), the central argument of this chapter is that military geography and proximate fields of study would be enriched by attending to 'the legal' and closely examining the role that law plays in the conduct of war and military operations. Law shapes war and military geographies in manifold ways, and in turn war and military geographies give shape to law (or at least some areas of law). Law, military violence and war are not discrete entities: they are conditioned by one another *from the outset*. Indeed, as Derek Gregory has memorably argued, law, violence, and war "hold each other in deadly embrace" (Gregory 2006b, 211). This chapter traces the implications of this embrace for military geography and cognate fields.

At first glance, this might seem like a peculiar focus and direction for military geography. Military geography, as this collection shows, is invested in the military shaping of geographical space and knowledge and the spatial shaping of military activities and effects. Military geography has had little to say about law/Law (and in-turn Law has had very little to say about military geography), and probably with good reason.ⁱ On the surface, law appears

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irrelevant to the study of military geography, at best it is an entirely different field of study, at worst a distraction for a sub-discipline that already struggles with its identity (see Woodward 2005; Rech et al. 2015). I am reminded of Nick Blomley's more general warning that geographers have largely neglected the study of law:

"It is easiest to ignore law completely, and to devote our energies to other considerations. This, it seems, is the path taken by most geographers. [...] The assumption seems to be that law, by its very nature, is somehow necessarily beyond the ambit of the geographer. Law is for the lawyer (or, more properly, the judge)" (Blomley 1989, 512–13).

If law in general has been neglected by geography, then the idea of war-law specifically appears almost alien to the discipline. Besides, war and law have traditionally been understood as polar opposites, a view supported by Cicero's 'maxim', *inter arma enim silent leges*: in times of war, the law falls silent (see Jones, 2016a).

But this chapter challenges the tradition of thinking that argues that law has nothing to say in and about war. Cicero's thesis on war and law may have made sense in Ancient Rome, but it does not help us to understand twenty-first century warfare. Indeed, I will show that law, war, and military geographies are co-constitutive – they come into being in mutual encounter and never stray far from one another, even when they appear at odds. Indeed, as Michael Smith and I have argued: "To some degree war has always entailed its rhetorics of justification and regimes of authorization" but "now more than ever, war requires a legal armature to secure its legitimacy and organize its conduct" (Jones and Smith, 2015: 583). War is at the sharp end of military geography, though clearly military geography is about more than war (or at least the *event* of war), but in this chapter I would like to extend my prior observations about law and war to military geography more broadly. Williams et al. (2016, 5) have argued: "Military research as a topic and a discipline needs reinvigorating, especially methodologically". I hope to show that attending to the law as analytic and method is one way that military research can be enriched.

Part of the argument here is that as later modern military operations have become increasingly dispersed in time and space (more on this below), so they have come to require evermore complex modes and layers of legal regulation. Most obviously, war is regulated by formal international legal regimes, which became infinitely more elaborate and sophisticated in the 20th and early 21st centuries (Best 1997; Alexander 2015). These include International Humanitarian Law (IHL) (also known as the Laws of Armed Conflict, or LOAC), and International Human Rights Law (IRHL); collectively these are known as *jus in bello* ('right in war') – the rules that govern the *conduct* of war. The *decision* to go to war is subject to yet another set of laws under the rubric of *jus ad bellum* ('right to war'), which is inscribed in the United Nations Charter of 1945. But the intersections between law, war and military geography go far beyond the formal legal regimes that govern war. If we learn to look, law can be found quietly shaping military geographies in often unassuming but nevertheless important ways. Take, for example, the legal norms and assumptions of a military base or firing range. I occasionally cycle through the Otterburn Ranges, a stunning part of the Northumberland National Park in Northern England. The Ranges are home to the Otterburn

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Army Training Estate, a military training area and the UK's largest firing range. Common enough, military bases have become part of the U.K. landscape (Woodward 2014). But the establishment and maintenance of a military training area like Otterburn requires all sorts of legal contracts, agreements, and even its own exceptional legal regime (The Otterburn Ranges have been owned since 1911 by the Ministry of Defence.) On the military range, it is legal to fire all sorts of deadly weapons and ordinance, but the firing of these weapons outside of these particular geographies would raise all kinds of legal – and possibly criminal and 'counter-terror' – responses. Everything from the mundane daily routine of a military base to the acquisition of weapons and personnel to the 'live fire' rules of engagement at the entrance(s) of a base are legally conditioned. This is not to say that law is the only – or even the most predominant – force shaping military geographies, but certainly law plays a conditioning role, and I argue that this role is becoming more important. Indeed, in the decades since 9/11 and especially since the invasions of Afghanistan and Iraq, we have witnessed an *intensification* of the relationship between war and law. This means that the juridical spaces of war and its attendant military geographies have multiplied and ramified (see Jones and Smith, 2015 and associated special issue). It also means that there is plenty of empirical, conceptual, and methodological grit for a nascent legal military geography mill.

I would like to make two caveats before proceeding. First: to say that military operations are subject to legal regulation is neither to imply that *all* military operations are (sufficiently or appropriately) regulated, nor that regulation *necessarily* imposes restrictions and restraints on military operations. When thinking about the relationship between military operations and law, it pays to consider two meanings of regulation. To regulate means to control, or attempt to control, but it also means to *regularise* – i.e. to make regular. As legal scholar Helen Kinsella points out, regulation can help *normalize* war and military operations: "[W]ars must be made regular; that is, they must unfold as a predictable sequence of events, conforming to a particular pattern as practiced by professionals." (Kinsella 2011, 105). Legal regulation is therefore not necessarily antagonistic toward military operations – although certainly it could be. Some legal scholars argue that legal regulation and the laws of war are necessarily restrictive. For example, David Luban contends, "the laws of war are, at bottom, constraints on warriors and war-fighting [...] Lawyers who interpret and enforce the laws of war are basically agents of constraint" (Luban 2013, 320). The counter view, and one that I subscribe to, sees constraint not as an intrinsic characteristic of legal regulation, but one possible characteristic among many. Legal regulation is a tool that can serve both constraining and permissive functions and it can both legitimise and delegitimise certain forms of action. At the sharpest and most cynical end of this spectrum, law is a weapon to be deployed in the service of power (see Berman 2004; C. Jones 2015; Kennedy 2006), but legal regulation need not always be so cynical and instrumental – and it can always be resisted or counter-deployed (Delaney 2009).

Second, in what follows the reader will notice a tendency to refer to 'war' rather than 'militarism', 'militarization', and 'military geography'. This is partly because the literature on war and law is far more developed than the literature on law and militarism/militarization (if indeed such a literature exists at all), but it is also because I understand war to be a central driving force of militarism while also including militarism within its remit. I reflect on the

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implication of this analytical distinction and my preference for the nomenclature of war in the penultimate section of this chapter.

This agenda of thinking through and thinking with the connections between law, war and military geographies is relevant not only to military geography and military geographers. It is also relevant to a broad – but I would argue not yet interdisciplinary – series of conversations taking place under various and indeed proliferating guises. These include, but are not necessarily limited to: ‘critical military studies’ (Rech et al. 2015b; Basham, Belkin, and Gifkins 2015); ‘militarism’ (see Stavrianakis and Stern 2018 and associated special issue); ‘liberal militarism’ (Basham 2018); ‘critical war studies’ (Barkawi 2011; Barkawi and Brighton 2011); ‘security studies’ (see the 2018 special issue on *militarism and security* in *Security Dialogue*); ‘postcolonial war’ (Barkawi 2016); and ‘martial politics’ (Howell 2018). This is not to say that each of these fields are exactly the same – they are not – but it is to say that there is significant overlap between them and that our understandings of war and militarism (or call it what you will) stand to benefit from *interdisciplinary* conversations about, but not limited to, the role that law plays in war and militarism and vice versa.

The chapter is organised as follows: the next section lays some conceptual foundations for legal military geography and demonstrates some of the manifold relationships between war, law and military geography. The following section contends that law and legal discourse are key means through which later modern war and the later modern battlefield are being contemporaneously (re)written. It then explores the role of law in maintaining and blurring the distinction between war and peace and civilian and military worlds before reflecting on the status of ‘war’ within contemporary military geography research. The final section concludes with some reflections on methodology and the implications of bringing ‘law’ into the military geography fold.

2. LAW, WAR, AND MILITARY GEOGRAPHIES

Law is central to the conduct of war, and in the late 20th and early 21st centuries, it has become increasingly important. I will trace the contours of this ‘juridification of war’ (Jones, 2016a) in a moment but must first signal a perhaps more fundamental relationship between law, war and military violence.

2.1 THE MILITARY GEOGRAPHIES OF LAW

War, military violence, and conquest stand at the heart of law. An illustrious cast of thinkers have drawn attention to the violent military origins of law, which are at the same time the origins of the state, but military geography has paid scant attention to these particular historical geographies. These could be rich areas of exploration for military geography, which already has an interest in history, texts and, in particular, military archives (see Farish 2016; Forsyth 2016). In some senses all geographies are *military* geographies – inasmuch as seemingly everywhere has at one point or another been touched by war – but there are particular advantages to looking at the specific intersections between law and military

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violence. To realise them, it is necessary to trace the contours of some of the most important work that has been done in this direction.

In a famous essay titled 'The Critique of Violence' Walter Benjamin (1996) argued that law is *founded* on violence (through revolution, colonization, coup d'état and the establishment of the state) and is *maintained* by violence (through police and military power, and the threat of death and punishment). Speaking to Benjamin's foundational legal violence, Michel Foucault claimed, 'law is born of real battles, victories, massacres and conquests', and that 'law was born in burning towns and ravaged fields' (quoted in Coleman, 2011: 133). Elsewhere, Foucault wrote: "Law cannot help but be armed, and its arm, par excellence, is death [...] The law always refers to the sword" (quoted in Smith 2014, 142). Jacques Derrida has shown how force is essential in the *enforceability* of law, for 'there is no law without enforceability, and no applicability or enforceability without force, whether this force be direct or indirect, physical or symbolic' (Derrida 1989, 925). I could go on, but the point here is that there is a common association between law and (military) violence (and between law and war) within Western political theory, but as the legal geographer Nicholas Blomley pointed out over fifteen years ago, the association "still sticks in the throat" (Blomley 2003, 121). In many respects, this is not surprising: as I suggested above, liberal conceptions of law present law as an *antidote* to violence and in so doing deny the violence upon which law is founded and upon which it feeds. To borrow a sober expression from Austin Sarat and Thomas R. Kearns (drawing from the legal theorist Robert Cover), the law ""deal[s] pain and death," and calls the pain and death that it deals, "peace" (Sarat and Kearns 1995, 3; Cover 1986, 1609).

The violent military origins of law, or what we might call a 'jurisprudence of violence' (Sarat and Kearns 1995, 10), which have been excavated in some detail by critical theory in general, and critical legal theory in particular, could be a rich area for military geography to explore. If we take Benjamin's observation about how law is founded and re-inscribed through military violence we open up a broad set of conceptual questions for military geography. For example: where, and under what circumstances does military violence give way to law and legal systems? How are legal systems – and the societies they represent – re-inscribed through material and discursive military force, and threats of oppression? What are the legal military geographies of colonial rule, and (how) have these changed under decolonisation and the 'colonial present' (Gregory 2004)? To take this in another direction, attending to the foundational military violence of law and legal systems would allow military geography to pursue questions of war and peace. Military geography has long been interested in the dissolution of the distinction between war and peace: militarism and militarization are key mediums through which this distinction has been unmade and remade. But a jurisprudence of violence that takes the military origins of law seriously shows us that there may have never been such a distinction, that war and peace are co-constitutive, and that military geographies may emerge in places where we do not necessarily expect to find them.

An obvious direction for legal military geography would be to examine the 'militarization of law'. This militarization can – indeed has – taken many forms, most obviously the militarization of the police (e.g. Neocleous 2014), but also the militarization of cities (e.g.

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Graham 2010) and the laws that govern access to public space (e.g. Blomley 2011). These are all potentially fruitful avenues of exploration but a word of caution is also needed here. In a recent essay, Alison Howell argued against the concept of militarization. Militarization, she argues, “falsely presumes a peaceful liberal order that is encroached on by military values or institutions” (Howell 2018, 117).ⁱⁱ This is a fantasy because no such *a priori* peaceful liberal order exists. In its bid to account for how civilian and social life has become militarized – and here, the horizons have proved endless – militarization theory obscures the more fundamental point that social life (‘society’) and warfare come into being through “*mutual encounter*” (Howell 2018, 129). If we apply this analysis to the ‘militarization of law’, the necessary response, taking into consideration a jurisprudence of violence, becomes: ‘hasn’t the law always been militarised?’ Indeed, it has, but this should not prevent us from closely examining the intersections between law, violence and militarism. In fact, Howell’s argument is an invitation to explore these co-constitutive legal military geographies.

2.2. JURIDICAL MILITARY GEOGRAPHIES

In recent years political geographers have begun to engage with legal geography, critical legal studies and critical international law. Legal military geography would benefit greatly from entering these conversations and debates, which I will now briefly outline.

Legal geography understands law and space to be co-constitutive. In an early and classic legal geography essay, Nicholas Blomley captured this idea by proposing the idea of a law-space nexus (Blomley 1989). For the most part and until recently legal geography has restricted itself to municipal and domestic scales of law (c.f. Barkan 2011), and despite Blomley’s foundational work on the legal geographies of violence (Blomley 2003), legal geography has not had much to say about military violence and warfare (c.f. Delaney 2009). But beginning in the 2000s, political and legal geographers began exploring the intersections between law, military violence and war (Gregory 2006b, 2006b; Legg 2011; Gregory 2006a). This work was partly driven by the invasions of Afghanistan and Iraq, and the ensuing so-called ‘global war on terror’ waged in the wake of 9/11. The wars on terror were increasingly seen through legal frames, and through the idea of exceptional legality. In turn, this was driven in no small part, first, by the development of illegal ‘black sites’ and spaces of torture, extradition and incarceration developed by the US in places like Guantanamo Bay and Abu Ghraib, and second by the deployment of lethal armed drones outside of recognised battlefields, in place like Yemen, Pakistan and Somalia (Hajjar 2013; C. Jones 2016b). This work was also inspired by a series of philosophical investigations into what Carl Schmitt called ‘the nomosphere of the earth’ and what Giorgio Agamben called ‘the state of the exception’ (Schmitt 2006; Agamben 2005). According to Schmitt’s famous definition of sovereignty, ‘sovereign is he who decides the exception’. For Schmitt, the sovereign can decide when the law applies and when an exception to the law can be made. Agamben took these ideas and showed how exceptionism has become the norm in Western liberal democracies, arguing that the line between exception and norm – law and the suspension of law – has become a zone of indistinction. It is not difficult to see why these ideas had – and arguably still have – such explanatory power in the post-9/11 era, an era

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that has been defined in part by aggressive Executive power, the suspension of the law, and expanding wars against multiple and multiplying enemies in the name of 'national security'.

An emergent and ongoing conversation between legal and political geography, inspired not least by attempts to understand the contemporary war-law-space nexus has raised two issues of interest to military geography (see Jones and Smith 2015). First, this work identifies a deepening of the relationship between law, war, and military violence, especially in the 21st century. Elsewhere, I have called this 'the juridification of later modern war' (C. Jones 2016a), though *re-juridification* may be a more apt descriptor. Legal military geography might consider examining the historical geographies that underwrite and animate the juridification of war, whether to bolster or refute claims about war as juridical space. Both the causes and consequences of this 'juridical turn' should prove fruitful lines of inquiry, as would comparative – or genealogical – work that asks questions like (but not limited to): What are the consequences of thinking about war in distinctly legal terms and what might have been lost? Who gains and who loses when war is conducted through juridical languages, discourses, and practices? Are some (para)militaries more prone to processes of juridification than others? How do soldiers, civilians and military decision-makers view law and legal regulation? What difference does law make to those who conduct war, those caught in the crossfire of warring parties, or those who are on the receiving end of military violence?

Second, work in political and legal geography has emphasised the vital role that law plays in driving a series of profound changes in the way that later modern war is fought and understood. Many of these changes are of central interest to military geography, for example: the (in)distinction between war and peace, and the blurring of the line between military and civilian and military and humanitarian worlds. In their work on private military contractors in Iraq and drawing on the concept of 'juridical othering' Snukal and Gilbert have astutely shown how the state has been able to distance itself from legal responsibility by constructing military contractors as outside both military and civilian law, while also 'othering' the victims of violence by placing them beyond the law's protections (Snukal and Gilbert 2015). As Williams et al. (2016, 3) have argued, state-centric conceptions of 'the military' and 'militarism' have been challenged, as traditionally non-military actors perform military and military-like roles (and vice versa). Law plays an important role in making and unmaking these distinctions and in order to understand and challenge these processes, military geography must be legally inclined. To take another example, John Morrissey has shown how law has been operationalised to strategic ends in securing US military bases around the world: "Since the inception of the war on terror, the US military has waged incessant lawfare to legally securitize, regulate and empower its 'operational capacities' in its multiples 'spaces of security' across the globe – whether that be at a US base in the Kyrgyz Republic or in combat in Iraq" (Morrissey 2011, 298 and see also Morrissey 2017). Morrissey's work is instructive in that it shows how law and military basing rights are a prerequisite to war – in much the same way that military geography views militarism and militarization as a prerequisite to war. Clearly then, there is already overlap between these literatures – but much work remains to be done in attending to the legal dimensions of military geography and war.

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3. EVERYWHERE WAR, EVERYWHERE LAW

War is not what it used to be. Nor will it be what it is. The great theorist of war and strategy, Karl von Clausewitz once famously claimed that war is a "true chameleon". Indeed, Herfried Münkler has claimed, 'war has lost its well-defined contours' (quoted in Gregory 2011, 239). In this section I show how changes in military geographies and the geographies of later modern war are enabled, in part, by a multi-faceted and multi-scalar legal armature.

Each year I ask my undergraduate students, 'Where are we [the UK] at war today?' It is a simple question with a surprisingly difficult answer. I am normally met with silence, eventually broken by some tentative suggestions about Iraq and Afghanistan ('but weren't we supposed to have withdrawn from those places?' one student rebuked this year). Syria is seldom mentioned, yet the UK has been bombing Syria since 2015 (C. Jones 2018). Yemen is similarly neglected, yet the UK has been providing the Saudi-led coalition with military advisers, advice on targeting processes, and has been selling them weapons for use in the war against Yemen for several years. In 2016 Angus Robertson, the Scottish National Party's leader at Westminster told Parliament that the UK is "effectively at war" in Yemen, and yet as Owen Jones points out, "few Britons know anything about it" (O. Jones 2016). Our profound unease and inability to identify even the most basic geographies of war today highlights the constitutive ambiguity of contemporary warfare, and its ability to blur the lines between war and peace, war and police, and military and non-military worlds (Gregory 2010; Neocleous 2014; Howell 2018). This isn't hyperbole: in a long-awaited response to a Freedom of Information request submitted by the U.K.-based Oxford Research Group Remote Warfare Programme, the Ministry of Defence revealed in September 2018 that the UK government "does not actually have working definitions of combat or non-combat" (Karlsjoej-Pedersen 2018). Given this astonishing admission by the UK military, it is little wonder that my students – and the UK public at large – have such difficulty in answering such a fundamental question.

These issues have been noted by a broad range of scholars, including international legal scholars and political geographers. Derek Gregory has written of what he calls the "everywhere war", where military, paramilitary and terrorist violence "can, in principle, occur anywhere" (Gregory 2011, 238). Stephen Graham has argued that the 'battlefield' has become a '*battlespace*', a concept that prefigures "a boundless and unending process of militarization where everything becomes a permanent site of war" (Graham 2009a, 389). Jolle Demmers and Lauren Gould spell out what is at stake in the contemporary moment of 'liquid warfare':

"[C]onventional ties between war, space and time have become undone. Liquid warfare is about flexible, open-ended, 'pop-up' military interventions, supported by remote technology and reliant on local partnerships and private contractors, through which (coalitions of) parties aim to promote and protect interests. Liquid warfare is thus temporally open-ended and event-ful, as well as spatially dispersed and mobile" (Demmers and Gould 2018, 364).

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There is certainly something to all of this nomenclature – liquid war, everywhere war – that suggests that warfare is changing, and is so at a rapid pace. One possible response is that warfare has always changed shape, has always re-written the geographies and temporalities upon and through which it is fought (Strachan and Scheipers 2011). Yet there is wide scope for historically and geographically informed analyses of the everywhere war, and military geography is well-poised to take up lines of inquiry that interrogate the contemporary (re)drawing of the lines between war and peace, and which *locate* the everywhere war. But here I want to suggest law, and especially international law, as one possible entry point.

Law at various scales plays an important but underexplored role in the making and remaking of the everywhere war. In an illuminating essay on what he calls the ‘deconstruction of the battlefield’, legal scholar Frédéric Mégret (Mégret 2011, 132) has argued:

“Defining the battlefield in war is not only a question of militarily deciding where actual battle will occur, nor is it merely a theoretical or doctrinal exercise. Behind these efforts lies a more fundamental struggle to define what constitutes a legitimate battlefield and, with it, legitimate forms of war.”

We should not forget that that the distinction between war and peace is in part a *legal* distinction. But this also means that law plays a role in blurring this distinction, as legal scholar David Kennedy (Kennedy 2006, 5) has noted:

“Warfare has become a modern legal institution. At the same time, as law has increasingly become the vocabulary for international politics and diplomacy, it has become the rhetoric through which we debate – and assert – the boundaries of warfare, and insist upon the distinction between war and peace or civilian and combatant. Law has built practical as well as the rhetorical bridges between war and peace, and is the stuff of their connection and differentiation.”

If we transpose this analysis to various sites and spaces of the ‘global war on terror’, we see the handiwork of law and international lawyers actively shaping and prefiguring the geographies of contemporary war. In 2017 UK Attorney General Jeremy Wright justified UK attacks on ISIS *outside* of recognised warzones – and he did so not by circumnavigating questions of law, but through legal language in which he emphasised the UK’s legal right to “self-defence”, while also defending the UK as a world leader in “shaping international law” (Gov.UK 2017). Israel and the US have been actively engaged in efforts to both shape international law and rapidly expand its geographies; legal scholar Jens David-Ohlin called this an ‘assault on international law’ (Ohlin 2015), but it is simultaneously an assault *through* international law. In my own work I have shown how the use of military lawyers at both operational (‘front end’) and strategic (policy) levels of warfighting do not necessarily prevent the proliferation of war and military violence, but can actually enable, legitimise and sometimes even extend it (C. Jones 2015, 2016a, 2016b). Again, there are many possible avenues open to military geography here. Drone warfare, rules of engagement, military basing, military recruitment, military landscapes, air shows, nuclear warfare, victim compensation (I could go on): these are all phenomena that military geographers engage with, but they each have a legal inflection which could help us come to terms with the ever-changing discourses and materialities of war and military violence. Law lends itself well to

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multi-scalar approaches, and questions of jurisdiction should be paramount in our investigations of legal military geographies. We might begin by asking of this or that military geography: what law(s) apply, where do they apply, to whom do they apply, when do they apply, and what purposes and groups do they serve? These questions will likely lead to multiple horizons and complex 'interlegal' military landscapes where jurisdictions 'come and go' in time and space and lead us to yet unexplored areas of military research (for a rich example of how this might be done, see Smith 2014).

4. WAR AND/OR MILITARY GEOGRAPHY? TOWARD A CRITIQUE OF VIOLENCE

My previous work on military lawyers and lethal targeting operations has been framed by an analytical and empirical focus on war. Until writing this chapter I had not, strictly speaking, thought about my research – and more broadly the relationship between legal regimes and military violence – in terms of military geography and the military geography literature. This raises important questions about how we define and understand the central objects and literatures of our research: what is it that we are researching, and why do we think about it in the terms we do? But it also raises issues about the relationship between war and military geography.

War is part of the critical military geography remit, but as Rech et al. (2015, 57) have argued, critical military studies "should be about much more than war itself". Critical military studies critiques traditional war studies for over-privileging "acts of armed conflict" over and above wider forms of militarism and militarization *that make war possible*. Said another way, critical military studies focuses not (only) on the dropping of bombs and the firing of guns, but (also) on the broader "range of social practices through which armed conflict comes into being, and all the things which surround, support, and sustain the pursuit of war" (Rech et al. 2015, 57). These have proven to be fruitful critiques, yielding rich debates and new fields, but my sense is that the pendulum may have swung too far, and that military geography can, and often does, shirk its responsibility to interrogate questions of war. For example, the editors of the *Routledge Companion to Military Research Methods* note that in writing the book, "we have actively sought to align ourselves with an approach which attempts to account for the manifold phenomena surrounding the preparation for war, *but not necessarily including it*" (Williams et al. 2016, 4, emphasis added). There are several compelling reasons not to study war as an isolated event. There are persuasive reasons to "adopt a smaller-scale, more localized and individualized study of militaries and their activities" (Rech et al. 2014: 9). There are also good reasons to vitiate against the state-centricity of work in International Relations (see Rech et al. 2014; Williams et al. 2016). However, these observations should not prevent military geography from engaging with questions of war – be that 'war proper' (the bombs and guns), or war as a generative space of social relations (see Barkawi and Brighton 2011). My concern here is that in its various bids to understand militarism and militarization, and in its attempts to distinguish it both from traditional military geography on the one hand, and war-studies on the other, (critical) military geography seems to privilege the *preparation* for war at the expense of examining the violent and injurious practices of war and, crucially, the changing nature of warfare.

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My critique here parallels the structure of a not altogether unrelated critique made by Nicholas Blomley concerning “exclusively discursive” theorisations of law and legal phenomena. Blomley cites a well-known passage from Edward Said’s *Culture and Imperialism*. “Struggles over space” he writes, are not only “about soldiers and cannons...but also about ideas, about forms, about images and imaginings” (Said, 1993, 7, quoted in Blomley 2003, 135). This much, perhaps we can all agree upon, but Blomley goes on to note that he is “left with an unease at the rapidity with which the “soldiers and cannons” are skated over or rendered secondary to discourse, where discourse is treated as always and only textual and linguistic”. At risk of being misunderstood, my claim is not that military geography over-privileges discourse (it does not). But military geography can and often does skate over the ‘soldiers and cannons’ in favour of the social relations that *prepare* the soldiers and cannons for battle. My claim is not that these preparations do not matter (they do). Rather, I am calling on military geography not to neglect the spaces of war where material violence is done, and where lives and bodies are torn, traumatized, injured and disposed of (Puar 2017; Everelles 2011; Wilcox 2015). As Elaine Scarry has memorably argued: “The main purpose and outcome of war is injuring” (Scarry 1985, 1). Military geographies always matter, but perhaps they matter most when fleshy bodies are on the line and in harm’s way.

The critique of war from critical military geography and critical military studies seems to emanate in part from a limited understanding of war as an event or act that is separated from the military geographies that support or sustain it. There is a sense in which critical military geography temporarily accepts traditional and IR conceptions of war as an exceptional event in order to subsequently critique this approach. The answer to the problem raised in traditional and IR approaches, is to show how the act of war is enabled by a broader set of social processes – i.e. militarism and militarization and their attendant geographies. But an alternative answer might be to broaden our understanding of what war is and what war has become. There is currently an abundance of approaches that refuse to conceptualise war as an exceptional event, limited in time and space, and which see war as more diffuse (e.g. Butler 2004, 2009; Agamben 2005). Indeed, over 40 years ago, Michel Foucault made the prescient observation that war is inscribed in all sorts of social relations beyond the traditional battlefield (Foucault 2003; see also Gregory 2010; Dillon and Neal 2011). Recent feminist scholarship has gone so far as to suggest that we should “forget militarization” (which implies a before and after) and instead “grapple with the ways in which war and politics are mutually shaped” (Howell 2018, 117).ⁱⁱⁱ In her work on domestic violence, Rachel Pain does not dispense with the analytic of war; rather, she uses it to understand structures of what she calls ‘intimate war’, leading her to contend that “domestic violence and modern international warfare are part of a single complex of violence” (Pain 2015, 64). And, in a final example, Judith Butler has argued for a renewed focus on the ways in which ‘frames of war’ – which she defines as “the ways of selectively carving up experience as essential to the conduct of war” – have come to not only “reflect on the material conditions of war”, but have also become “essential to the perpetually crafted *animus* of that material reality” (Butler 2009, 26). She goes further in suggesting that thinking with war is ever more vital as its discourses and practices pervade a multitude of spaces and issues “largely considered separate from “foreign affairs” (Butler 2009, 26). None of this is to say that we

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must now define our work in relation to war, but this is an invitation for military geography to think about how military geography relates to war and the inevitable material violence that ensues when preparations for war give way to lethal conduct.

5. CONCLUSION

I hope to have shown that there is plenty of empirical, conceptual, and methodological grit for a nascent legal military geography mill. Yet for two related reasons the task ahead is not easy. First, uncovering and analysing legal and legislative violence is not easy because law will not readily admit its violence and because law appears part of the 'natural' and social landscape; it is therefore tempting to treat legal violence as "impersonal, inevitable, and apolitical" (Blomley 2003, 134). Second, as the boundaries between war and peace have become ever more blurred (Gregory 2010), and as war has become unmoored from its traditional battlefields (Graham 2009b; Mégret 2011), the spaces of war have multiplied, dispersed, and taken on new forms. Later modern war has compressed space and time – the paradigmatic example is drone warfare and the compression of what the US military calls the 'kill chain' – but it has also expanded and stretched the spaces and times of war (almost) beyond recognition. We must therefore equip ourselves to be able to recognise different forms of war while also attending to the often-hidden hand of law in its production and perpetuation. Daunting though this may be, (legal) military geography might do well to emulate the proliferation and dispersion of later modern war. We must go – literally and metaphorically – to the multiple and often new spaces made and colonised by war. Methodologically, this might involve not so much 'following *the thing*' as Ian Cook et al. would have it, but following the *several* 'things' that war has become, while also confronting the fact that war imposes often extraordinary limits on what, who, when and where 'we' – as researchers with different and multiple identity markers – might follow (Cook et al. 2004; c.f. Hulme 2017). Conceptually, this will almost certainly involve counting to ask difficult questions about what war is and how it comes into being in relation to politics and other forms of violence (Howell 2018).

In their book on military research methods Williams et al. (2016) point out that although social science and humanities research into the military and the militarisation of Western democracies has expanded in recent years, there remains a relative dearth of research in this area. They argue that one of the reasons for this is that researching militaries is not easy: questions of access, sensitivity, security and risk pose "unique challenges" in "developing military research methodologies" (Williams et al. 2016, 1). This is an important observation and it raises a series of issues for how we might go about researching (legal) military geographies. In my own – albeit limited – experience, I have found law to be a useful way into all sorts of conversations about war, militarism and military violence. Rightly or wrongly, law is seen by some of its practitioners (and others) as somehow neutral, objective and non-threatening. Law is concerned with process and is often viewed as beyond the pale of politics. I am reminded of an interview I once conducted with a not-well-known military historian called Douglas Valentine. Valentine wrote what for me is a monumentally important book about the Phoenix Program, an extra-judicial killing program that was a key part of the US war in Vietnam (see Valentine 1990; Van Bergen and Valentine 2005). At the end of our

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conversation, I asked Valentine how he was able to gain unprecedented access to those who ran the highly classified and confidential Phoenix Program. He told me that he focused on *process* and *protocol*, *paperwork* and *bureaucracy*, and that he never made his research about any one individual, but rather focused on the political-military system as a whole. There may be some important parallels here for military geography, but what struck me about Valentine's approach is that the law lends itself so well to process and protocol. I don't simply mean that law leaves a vast paper trail – though it does; I also mean that there is something depersonalized – and depersonalizing – about the law that makes it an especially intriguing (not to say easy) entry point into what can be very difficult, often politically fraught and sometimes intimidating conversations about war and military violence. Partly, this is about how we as military geographers frame our object of study in ways that facilitate rather than foreclose conversations with those who 'do' militarism and militarization.

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ⁱ Law with a capital 'L' here refers to the academic discipline of Law; law without capitalisation refers to a broad set of legal rules, norms and regulations.

ⁱⁱ Similar arguments have been made elsewhere. For example, Woodward et al. (2017) discuss (Kuus 2008) Kuus's (2008) definition of militarism, which they argue is more favourable than other definitions because "she [Kuus] argues for militarisation to be seen as an integral part of social life in Western liberal democracies, and as something which takes place outside the institutions and practices which explicitly promote military solutions to political problems" (Woodward et al. 2017, 204).

ⁱⁱⁱ Howell elaborates on the significance of this conceptual move thus: "militarization obscures the constitutive nature of war-like relations of force perpetrated against populations deemed to be a threat to civil order or the health of the population, especially along lines of race, Indigeneity, disability, gender, sexuality and class." (Howell 2018, 118)